

JA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,615	09/17/2003	Nabil N. Ghaly		3521

7590 02/25/2005

Dr. NABIL N. GHALY
14 Longwood Drive
South Huntington, NY 11746

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,615	Applicant(s) GHALY, NABIL N.	
	Examiner Urszula M Cegielnik	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-10, and 12-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-10 and 12-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 17-21, 24, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation “random elements”. It is not clear what the applicant intends to claim through this recitation. Claims 24 and 34 recite similar language.

Claim 16 recites the limitations “user’s responses to interactions” and “normal responses to interactions”. It is not clear what are considered to be user’s responses to interactions and what is considered to be normal responses to interactions.

Claim 17 recites “said responses”. It is not clear whether applicant is referring to the user’s responses, normal responses, or both.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

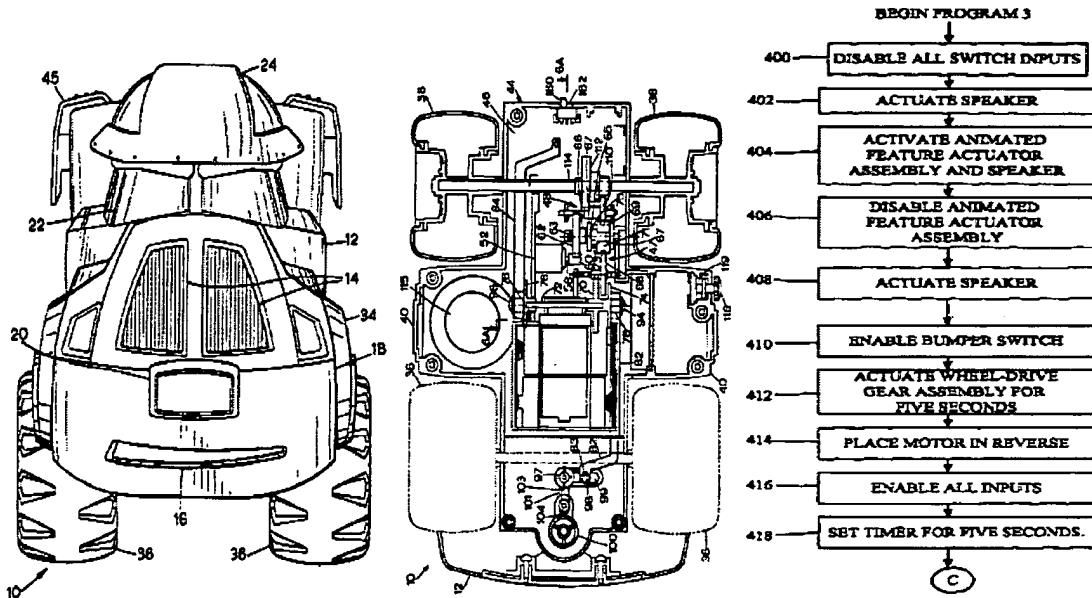
A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
- (2) a patent granted on an application for patent by another filed in the United States before

Art Unit: 3714

the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 8-10, are 12-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerold et al.



Gerold et al. disclose a toy vehicle (10) comprising a vehicle chassis or frame (41) having a plurality of wheels (36,38); a motor (52) driving at least one wheel (38) of the vehicle; input control means (119,132,141,144) to enable a player to control the motor (52) and/or interact with the vehicle (10), and additional means (156) to control the operation of the motor (52) independent of the input control means (119,132,141,144) (col. 9, lines 24-48); the additional means to control the operation of the motor includes an algorithm that employs random elements to determine when the motor is activated independent of control signals received from the input control means (119,132,141,144); a

Art Unit: 3714

microprocessor (146); a software program executed on a processor (146) to control the operation of the vehicle (10) (col. 9, lines 24-48); a program segment that generates interactions with the user of the vehicle (col. 5, lines 33-37; col. 8, lines 8-15); a program segment that controls the vehicle to operate in a plurality of states, including a first state during which the operation of the motor (52) is independent of the input control mechanisms (col. 6, lines 65-67), and a second state during which the vehicle executes one or more pre-programmed movements that are not responsive to the input control mechanisms (col. 9, lines 24-48); activating accessories to the vehicle; a mechanism (48) to steer the vehicle (10); the vehicle is shaped as a truck (col. 3, line 2); a program segment (see *Figure 11 – blocks 200,202,204,206,208, and 210, for example*) that controls the vehicle to operate in a plurality of states including a first state during which the operation of the motor (52) is independent of the input control mechanisms (col. 6, lines 65-67) and a second state during which the vehicle executes one or more pre-programmed movements that are not responsive to the input control mechanisms (col. 9, lines 24-48); the input control mechanisms include accessories which may be plugged into the vehicle such as a gas can (116) to enable a user to control the vehicle and provide responses; an algorithm that employs random elements (*e.g. sound*) and which determines when the operation of the motor (52) is responsive to control signals received from the input control mechanisms (119,132,141,144) (see *Figure 11 – blocks 200,202,204,206,208, and 210, for example*); a control logic segment (see *Figure 13, Program 3 at block 412, for example*); that controls the operation of the

Art Unit: 3714

steering mechanism (48) independent of the control signals received from the input control mechanisms (119,132,141,144).

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3714



Urszula M. Cegielnik
Assistant Examiner
Art Unit 3714